



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/186,741	11/05/98	EBERLE	H HWE-105C

KENNETH P GLYNN
ONE ROUTE 12 WEST
SUITE 201 (PLAZA ONE)
FLEMINGTON NJ 08822

PM92/0119

EXAMINER

LEV, B

ART UNIT	PAPER NUMBER
----------	--------------

3634

DATE MAILED:

01/19/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/186,741

Applicant(s)

Eberle III

Examiner

Bruce A. Lev

Group Art Unit

3634



☒ Responsive to communication(s) filed on Nov 5, 1998

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 18-29 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 18-29 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3634

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "**invention**", "means", and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 112

2. Claims 27-29 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As concerns claim 27, the phrases "said at least two vertical support members", in line 10, and "and one of each being located on opposite sides of an attachment orifice", in lines 11-12, lack antecedent basis because "at least one...vertical support member", in line 6, is being claimed, therefore the claim is rendered vague and indefinite. Furthermore, there are two periods within the claim (i.e., lines 15 and 17) which is improper.

Art Unit: 3634

Claim Rejections - 35 USC § 103

3. Claims 18, 19, and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellinwood in view of Bischof 5,529,428.

As concerns claim 18, Ellinwood sets forth an anchoring biscuit device comprising a first substantially flat horizontal top element having a generally biscuit-shaped top view configuration (inclusive of members 25) with opposite side walls and a center area therebetween; at least two substantially vertical support member (inclusive of the two vertical halves of member 24) attached to the underside of the top member and extending downward therefrom for a predetermined length and being substantially flat; and at least one attachment orifice (inclusive of member 30) located on at least the top element. What **Ellinwood does not set forth** is the side walls of the top element each being in the shape of an arc having a radii and an arc length. However, **Bischof teaches** forming the side walls of a connector piece (such as an anchoring biscuit and best illustrated in figure 9) as being in the shape of an arc having a radii and an arc length. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the side walls of Ellinwood by forming them as having an arc having a radii and an arc length, as taught by Bischof, in order to decrease the friction between the biscuit and the attached elements and thereby increase the ease as to which the biscuit can be initially set into place.

As concerns claim 19, Ellinwood sets forth the attachment orifice being at least one screw hole (viewed as such since a screw can extend through the hole).

Art Unit: 3634

As concerns claims 24 and 26, Ellinwood sets forth the top element and the vertical support member are uni-structurally formed.

As concerns claim 25, Ellinwood sets forth the two vertical support members being located opposite one another and on each side of the orifice.

As concerns claim 27, Ellinwood sets forth the biscuit, as advanced above, including a single vertical support member being located offcenter and to one side of the attachment orifice (best illustrated in Figures 2-4).

4. Claims 20-23, 28, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellinwood in view of Bischof further in view of German Patent 372,483.

Ellinwood in view of Bischof set forth the anchoring biscuit except for the attachment orifice having a beveled top, and being non-circular and elongated. However, German Patent 372,483 teaches an anchoring device, inclusive of members d and e, having a beveled top, and being non-circular and elongated. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the attachment orifice of Ellinwood in view of Bischof by forming it having a beveled top, and being non-circular and elongated, as taught by German Patent 372,483, in order to increase the friction between the head of an attachment screw and the attachment orifice, and to allow the alignment of the attachment screw to be adjusted to thereby increase the strength of the connection between the anchoring biscuit and the adjoined boards.

Art Unit: 3634

Response to Amendment

3. Applicant's remarks filed November 18, 1999 have been fully considered but are not deemed to be persuasive.

As concerns remarks pertaining to the biscuit of Ellinwood not having an orifice passing all the way through the device, the examiner takes the position that when in use, i.e., the final product, the attachment member (28) passes through opening 31 and continues to pass all the way through the device thereby completing the attachment orifice as passing all the way through the device (further illustrated as such in Figures 1-4). How the orifice was first formed is of little consequence to the patentability of the device, itself, because Ellinwood clearly possesses an orifice. Note that one need only remove the nail 28 to verify this.

As concerns remarks pertaining to the combination using the German Patent '483, the examiner reiterates the position that the German Patent '483 teaches an anchoring device incorporating an attachment orifice having a beveled top, being non-circular, and being elongated. Therefore, it would have been obvious to modify the attachment orifice of Ellinwood in view of Bischof by forming it having a beveled top, and being non-circular and elongated, as taught by German Patent 372,483, in order to increase the friction between the head of an attachment screw and the attachment orifice, and to allow the alignment of the attachment screw to be adjusted to thereby increase the strength of the connection between the anchoring biscuit and the adjoined boards.

Art Unit: 3634

The 132 affidavit of November 18, 1999, filed along with the instant amendment, has been considered and reviewed by the examiner. However, it is still the view of the examiner that the rejections based upon the prior art, as advanced above within this office action, render the instant claims as unpatentable. Furthermore, the method of using, as illustrated within the video tapes supplied by the applicant along with the affidavit, is not considered as patentable subject matter within the instant apparatus claims.

Conclusion

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

Applicant's amendment, including "top element having a generally biscuit-shaped top view configuration with opposite side walls in the shape of arcs from a top view, said arcs having predetermined radii and arc lengths" (claim 18, lines 2-4, and claim 27, lines 2-4), necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN

Art Unit: 3634

THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.



bl 

January 12, 1999

Daniel P. Stodola
Supervisory Patent Examiner
Group 3600